REMARKS

Claims 1-12, 14-16, and 18-31 are pending in the application. Claims 13 and 17 are cancelled. Claims 1-5, 7-11, 14-15, 18-31 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,758,257, Hertz et al. ("Hertz"). Claims 6, 12, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hertz as applied to claims 1, 10, and 15, and in view of U.S. Patent No. 6,779,004, Zintel ("Zintel").

Claim Amendments

Claims 1, 9, 15, 22 and 30 have been amended to remove extraneous formatting.

Claims 9 and 26 have been amended to include a processor operable to monitor services available information. Support for these amendments may be found on pages 6-7. No new matter has been added.

Claims 15 and 30 have been amended to include tracking services available information. Support for this amendment may be found on page 7 of the application. No new matter has been added.

Claim Rejections – 35 U.S.C. § 102

Herz does not teach decoding of content signals into display signals as recited in claims 1 and 22. First, Herz does not teach decoding of content signals. No decoder is mentioned in Herz. Second, even if the "content signals" cited by the Examiner are decoded, the signals are not display signals, but are "content profiles". *See Herz, col. 24, line 56 – col. 25, line 6.* Nowhere in Herz are the content profiles displayed from a network termination unit. As a result, Herz does not teach each and every element of claims 1 or 22. The Applicant respectfully requests that the Examiner withdraw the rejection of claim 1 and dependent claims 2-5, and 7-8, and claim 22 and dependent claims 23-25.

Herz does not teach a computing device as a viewing device as recited in claim 5. No computing device as a viewing device is mentioned in Herz. As a result, Herz does not teach each and every element of claim 5. The Applicant respectfully requests that the Examiner withdraw the rejection of claim 5.

Herz does not teach decoding the demodulated content signals into command and control signals as recited in claim 7. The set top multimedia terminal of Herz may receive content/customer profiles and calculate an agreement matrix using the profiles, but the terminal was not commanded nor controlled by the content profiles. *Herz, col. 25, ll. 16-19.*

The terminal of Herz merely used the profiles as data to calculate the agreement matrix. Hence, Herz does not teach each and every element of claim 7. The Applicant respectfully requests that the Examiner withdraw the rejection of claim 7.

Herz does not teach detecting, tracking, or monitoring services available as recited in claims 8, 9, 15, 26, and 30. Although Herz discloses "selecting receipt of desired data services and shop at home services, and selecting from available music and multimedia offerings," Herz does not disclose detecting, tracking, or monitoring the services available. Herz may select from the available services, but it does not detect, track, or monitor the services. As a result, Herz does not teach each and every element of claims 8, 9, 15, 26, 30, or dependent claims 10, 11, 14, 18-21, 27-29, or 31. The Applicant respectfully requests that the Examiner withdraw the rejection of claims 8-11, 14-15, 18-21, and 26-31.

Herz does not teach a content analyzer in a head end as used in claim 11. Although Herz discloses a "head end", the head end in Herz is always described as receiving modulated channels or program sources. *See Herz, Figs. 4-6, and col. 42, 27-30.* As used in the application, the head end processes the programs before the programs are modulated for transmission. *See Application, page 3, ll. 13-25.* Thus, Herz does not teach each and every element of claim 11. The Applicant respectfully requests that the Examiner withdraw the rejection of claim 11.

Herz does not teach detecting or tracking video content delivery to users as recited in claims 18, 25, and 31. Herz discloses tracking customer preferences. The selection of the programs may be tracked to create the customer preference, but tracking of the delivery is not inherently required. "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *MPEP 2112 IV. quoting Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).* It does not necessarily flow from Herz that tracking selection of programs results in tracking of delivery. As a result, Herz does not teach each and every element of claims 18, 25, or 31, or claims dependent from claim 18, claims 19 or 20. The Applicant respectfully requests that the Examiner withdraw the rejection of claims 18-20, 25, and 31.

Herz does not teach tracking use patterns or services available information of a service extension offered on the viewing device as recited in claim 21. Even if service extensions are disclosed in Herz, no tracking of the use of the service extensions is mentioned. As a result, Herz does not teach each and every element of claim 21. The Applicant respectfully requests that the Examiner withdraw the rejection of claim 21.

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Claim Rejections – 35 U.S.C. § 103

The combination of Herz and Zintel does not render obvious each and every element of claims 6, 12, and 16. First, as described above, Herz does not teach all of the elements of claims 1, 9, and 15. The combination of Herz and Zintel does not contain a suggestion of the missing elements.

Second, the combination of Herz and Zintel does not render obvious a content discovery protocol as recited in claims 6, 12, and 16. "The format of the header that identifies use pattern packets, as well as the format of the payload data, will be referred to as content discovery protocol." *Application, page5, line 20.* The combination of Herz and Zintel does not have a suggestion for a protocol for use pattern packets. For example, the Simple Service Discovery Protocol, cited by the Examiner, is "for discovery of devices on IP networks." *Zintel, col. 46, ll. 33-35.* Such discovery of devices does not suggest a packet for use patterns.

Therefore, the combination of Herz and Zintel does not teach each and every element of claims 6, 12, or 16. The Applicant respectfully requests that the Examiner withdraw the rejections of claims 6, 12, and 16.

Conclusion

For the foregoing reasons, reconsideration and allowance of claims 1-12, 14-16, and 18-31 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

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Respectfully submitted,

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